



GABRIEL P. HARVIS  
BAREE N. FETT

August 1, 2016

BY ECF

Honorable Vera M. Scanlon  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Haynes. v. City of New York, et al.*, 15 CV 6793 (AMD) (VMS)

Your Honor:

I represent plaintiff in the above-referenced matter. I write to respectfully request that the Court: (i) impose a date certain compliance deadline in connection with its June 15, 2016 order; and (ii) order the City of New York to submit a status report on the IAB investigation, which has been pending for approximately one year. Plaintiff has met and conferred with the defense in an effort to obtain the relief requested without Court intervention.

*Plaintiff's Position*

After hearing argument on the discovery disputes raised in the parties' June 8, 2016 joint status report, the Court, *inter alia*, directed defendants on June 15th to produce closing reports related to the investigations disclosed on the officer defendants' CCRB summaries, along with either the City's investigation file or a privilege log. *See* 6/15/16 Transcript, annexed hereto as Exhibit 1, p. 11, ln. 11-22; p. 19, ln. 10-p. 22, ln. 7. The Court's order (which contained other rulings) did not provide a deadline for defendants' production. DE #19.

Plaintiff e-mailed defense counsel on July 18, 2016, bringing the matter of the production of the closing reports and investigatory file to her attention. At defendants' request, plaintiff consented to production of the material by July 25, 2016, conditioned on defendants' production at that time of the closing reports and the file or log. Last week, defendants e-mailed outdated disciplinary summaries of the defendants, without

Hon. Vera M. Scanlon

Aug. 1, 2015

providing any closing reports, the investigative file or a privilege log. Given that fact discovery is set to close in approximately six weeks, and plaintiff needs the material to plan for and conduct depositions, plaintiff respectfully requests that a date certain deadline be set for prompt production of the closing reports and a file or log.

Lastly, plaintiff respectfully requests that defendants be required to provide plaintiff with a meaningful update on the status of IAB's investigation, which began in August 2015. During the June 15<sup>th</sup> conference, the Court instructed defense counsel to file a status letter two days later clarifying the status of the IAB investigation. Exhibit 1, p. 3, ln. 21-p. 4, ln. 8. Defendants' letter stated, in pertinent part, "my contacts at the NYPD who are looking for [information regarding the status of the open investigation] have not yet been able to provide me with an answer. I will advise the Court as soon as I have information regarding the investigation's status." DE #20. To date, defendants have filed nothing on the docket and have provided plaintiff with no further information, other than to say that the investigation is "ongoing." Plaintiff respectfully submits that further detail is warranted so that the Court and plaintiff may consider the degree to which a continuing partial stay of the matter is appropriate. *See* Exhibit 1 at p. 14, ln. 16-18 ("...If [the partial stay] goes on too long, we should revisit this.").

Accordingly, plaintiff respectfully requests that defendants be ordered to disclose further information regarding the investigation, including the phase and expected completion date.

#### *Defendants' Position*

With respect to the disciplinary histories, which plaintiff's counsel claims are "outdated," the majority of the disciplinary histories that were provided are from January 2016 and December 2015. Defendant agrees to produce updated disciplinary histories to the extent that there are allegations related to false statements. We request 30 days to provide updated histories. As previously discussed with plaintiff's counsel, we only received the NYPD's file related to this incident on July 28, 2016. Defendant will provide a privilege log for this file by August 4, 2016. Additionally, we also just recently learned that the investigation into this incident is still pending, but do not have any other information at this time regarding when the investigation is expected to conclude. Regarding the CCRB closing reports, defendant agrees to provide the closing reports for the CCRB files requested by August 15, 2016 and will make the full files available for inspection within 30 days.

Hon. Vera M. Scanlon

Aug. 1, 2015

Thank you for your consideration of this request.

Respectfully submitted,



Gabriel P. Harvis

Encl.

cc: Shira Siskind, Esq.